IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

Con.Case(C).No. 986 of 2007(S)

AGAINST THE ORDER IN I.A.No.206 OF 2007 IN UN-NUMBERED R.P. IN WPC.7442/2005 Dated 28/03/2007

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PETITIONER/PETITIONER IN IA 206/2007:

GALAXY EMPIRE FLAT OWNERS ASSOCIATION,
REGD.UNDER THE TRAVANCORE COCHIN LITERARY,SCIENTIFIC CHARITABLE SOCIETIES REGN.ACT,1955,NO.ER/125/2007 & OFFICE AT MOOLEPADAM ROAD.,VAZHAKKALA, KAKKANAD SOUTH PO,REP.BY ITS SECRETARY, N.J.GEORGE, RES:AT FLAT NO.C7, GALAXY EMPIRE, VAZHAKKALA, KAKKANAD SOUTH P.O.

BY ADV. SRI.M.P.MADHAVANKUTTY

RESPONDENTS/RESPONDENTS 2 TO 4 IN IA 206/2007:

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1. MUHAMMED HANEESH, (AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER), DISTRICT COLLECTOR, ERNAKULAM.

2. INDIRA DEVI, (AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER), REVENUE DIVISIONAL OFFICER (IN-CHARGE) FORT KOCHI, ERNAKULAM DISTRICT.

3. T.S.SUBHASH, (AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER), SECRETARY, THRIKKAKARA GRAMA PANCHAYATH, ERNAKULAM.

BY SR. GOVERNMENT PLEADER SHRI M.R. SABU.

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR ADMISSION ON 02/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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CONTEMPT CASE (C) No. 986 OF 2007

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Dated this the 2nd July, 2007

J U D G M E N T

H.L. Dattu, C.J.:

The complainant is a flat owners' association. It is before us inter alia contending that the respondents in the Contempt case have disobeyed the orders and directions issued by this Court in I.A. No. 206 of 2007 in un-numbered Review Petition in W.P.(C) 7442 of 2005. Therefore, a request is made to initiate appropriate contempt proceedings against the respondents and punish them for the so called wilful and deliberate disobedience of the orders and directions issued by this court.

2. In W.P.(C) No.7442 of 2005, which was a Public Interest Litigation, the prayer was to direct the respondents to remove all the encroachers, so that there will be free flow of water in Vazhakkala-Mooleppadam Thodu. This Court had allowed the Writ Petition and had granted necessary reliefs sought in the Writ Petition. This Court had further directed the respondents in the Writ Petition to remove all the encroachers, so that there will be free flow of water in Vazhakkala-Mooleppadam Thodu. Since the orders and directions issued by this

court in W.P.(C) 7442 of 2005 were not complied with by the respondents, the petitioner in the Writ Petition was before this court in C.O.C.No.322 of 2007. In the said Contempt case, we have appointed a Court Commissioner to inspect the spot and to submit a report as to whether the affidavit filed by the respondents is correct or not. The said Contempt case now stands adjourned to 09.07.2007.

. 3. After the disposal of the Writ Petition No.7442 of 2005, the complainant herein had filed a Review Petition. This Court, by its order dated 28th March, 2007 had passed an order in I.A.206 of 2007 in the un-numbered Review Petition . In the said order, this court had directed the respondents to issue notices to all the affected parties before taking any action for eviction of unauthorised encroachers. While disposing of I.A.No.206 of 2007 in the un-numbered Review Petition, this Court was pleased to observe as under:

> *"Therefore, it is for the petitioner or the affected parties, if any, to bring to the notice of the authority concerned their grievances, if and when any action against them is taken. Needless also to say that in which event, the affected parties would be given notice also."*

4. In the Contempt case filed, nowhere, the complainant would state that they have approached the respondents for the action, if any,

taken against them. As we have already noticed, this Court had given a specific direction that if they have any grievances, firstly they should expose their grievances before the concerned authorities and if for any reason, the redressal of their grievances is not given to them, then only they should approach this court in a Contempt case.

5. Having seen our earlier and the present order, we are of the opinion that the respondents have neither deliberately nor wilfully disobeyed the orders and directions issued by this court . In that view of the matter, cognizance of the Contempt Case need not be taken up. Accordingly, the request of the complainant requires to be rejected and it is rejected.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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